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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,913	07/08/2003	Kanna Ueda	AA596M	7885

27752 7590 10/03/2006

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EXAMINER

PATEL, RITA RAMESH

ART UNIT PAPER NUMBER

1746

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/614,913	Applicant(s) UEDA ET AL.	
	Examiner Rita R. Patel	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,5,7 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5,7 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments/Amendments

This Office Action is responsive to the amendment filed on 7/19/06. Claims 1-3, 6, and 8-9 have been canceled. Claims 4, 5, 7, and 10 are pending. Claims 4 and 10 have been amended. Applicant's arguments have been considered, but are not persuasive. Therefore, upon further consideration, the instant claims are rejected under new grounds of rejections and thus claims 4, 5, 7, and 10 are finally rejected for the reasons of record.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brincat (US Patent No. 6,938,805) and further in view of Li (US Patent No. 4,706,829).

Brincat teaches a refillable container adapted to facilitate the purchase and use of consumer products and the selective discharge thereof (Abstract). Brincat teaches that the bottles are refilled by unscrewing the top of the bottle or sprayer, just under the cap or sprayer, providing any of the following types of discharging mechanisms:

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sprayers, pumps, spout tips, flip tops, polly tops, push and pull caps (col. 6, lines 14-38). Moreover, Brincat states the discharge cap 102 may be of any type of discharge device (col. 2, lines 42-43); therefore, not limiting the type of discharging means and implicating any combinations thereof. As shown in Figure 6B, the upper body portion 106 illustrated by Brincat is removably attached to the hollow body member of the container; moreover, a refill cup 16 is secured to the bottom end 18 of the container which may be used for measuring and refilling products. Thus, the upper body portion 106 and refill cup 16 attached to the container 10 read on applicant's claims wherein the attachment portion removably attaches to the measuring implement and the applicator is in dispensing position when the hollow body member comprises therein the cleaning composition for dispensation.

Brincat teaches the container 10 is adapted for receipt of material such as a liquid therein, which may comprise soap, conditioners or other substances often used by consumers; it is noted that any of a wide variety of substances could be used (col.3, lines 9-15).

In Figures 2 and 3 Brincat illustrates a discharge assembly/cap 12 for attachment to the top 14 of the container (col.3, lines 17).

Brincat teaches the claimed invention, except fails to teach a double-walled characteristic of the measuring cup. However, Li teaches a double-walled measuring cup of a liquid dispensing package. The liquid dispensing package includes a hollow plastic container having a neck, a fitment interengaging the neck and the closure

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(Abstract). Li teaches the closure can be used as a cup to measure a predetermined quantity of the liquid contents (col. 2, lines 36-37). Li discloses this invention achieves to resolve prior problems encountered in connection with such packages, such that it has been formerly difficult to provide a seal between the fitment forming the pouring lip and the container, and overcomes the necessary capacity for measuring the liquid delivered to the cup in use (col. 1, lines 19-28). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate said double-walled feature of the measuring cup of Li to the measuring cup of Brincat for minimizing liquid drip. Both Brincat and Li teach containers for dispensing cleaning liquids therefrom, and such types of lids/measuring cups are known equivalents in the art. It would be obvious to one of ordinary skill in the art at the time of the invention to use substitution of known equivalent structures. *In re Fout* 213 USPQ 532 (CCPA 1982); *In re Susi* 169 USPQ 423 (CCPA 1971); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *In re Ruff* 118 USPQ 343 (CCPA 1958).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita R. Patel whose telephone number is (571) 272-8701. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RRP

A handwritten signature in black ink, appearing to read 'Michael Barr', with a long horizontal flourish extending to the right.

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

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